

AMENDED IN ASSEMBLY JULY 28, 2004

AMENDED IN SENATE APRIL 1, 2004

**SENATE BILL**

**No. 1388**

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**Introduced by Senator Ortiz**

February 18, 2004

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An act to amend Section 11105 of the Penal Code, relating to criminal history information.

LEGISLATIVE COUNSEL'S DIGEST

SB 1388, as amended, Ortiz. Criminal history information.

Existing law requires the Department of Justice to furnish various agencies and entities with a person's state summary criminal history information when that information is used for employment, licensing, or certification purposes, and permits the department to furnish that information, upon a showing of a compelling need, to listed entities, as specified. Among those entities to which the department may provide this information are public utilities, if needed in order to assist in employing current or prospective employees who in the course of their employment may be seeking entrance to private residences.

This bill would permit the department also to provide federal level criminal history information upon the same showing of compelling need when specifically authorized, and would authorize public utilities to receive that information *commencing July 1, 2005*, pursuant to specified procedures. It would also expand the authorization for public utilities to receive state and federal criminal history information to permit cable corporations, as defined, to receive that information *commencing July 1, 2005*, and would permit that information to be provided concerning current or prospective contract and subcontract

employees as well. This authorization would also be expanded to apply to those employees who may be seeking access to adjacent grounds rather than just residences.

*Existing law provides that state criminal history information obtained by a public utility is confidential, makes it a misdemeanor for a public utility to disclose that information, except as specified, and provides for destruction of copies of that information in the possession of a public utility within specified periods.*

*This bill would make these same confidentiality requirements applicable to cable corporations receiving state criminal history information.*

*By expanding the scope of the misdemeanor penalizing improper disclosure of state criminal history information to cover cable corporations, this bill would impose a state-mandated local program.*

Existing law states a general rule applicable to those whose criminal history information is authorized to be released for employment, licensing, or certification purposes, a rule that limits the release to convictions and to arrests for which the applicant is pending trial. It states different rules limiting the information subject to release to a greater or lesser extent for applicants for specified positions, licenses, or certifications. These special rules detail what information should be disseminated concerning these applicants, according to the nature of the position, license, or certification sought. Existing law provides that a utility company receives conviction and arrest information concerning its applicants under the general rule.

This bill would provide that a cable corporation would receive a more limited set of conviction and arrest information than a utility company, as specified.

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~ yes.

*The people of the State of California do enact as follows:*

1    SECTION 1. — ~~Section 11105 of the Penal Code is amended to~~  
2

1     *SECTION 1. Section 11105 of the Penal Code is amended to*  
2     *read:*

3     11105. (a) (1) The Department of Justice shall maintain state  
4     summary criminal history information.

5     (2) As used in this section:

6     (A) “State summary criminal history information” means the  
7     master record of information compiled by the Attorney General  
8     pertaining to the identification and criminal history of any person,  
9     such as name, date of birth, physical description, fingerprints,  
10    photographs, date of arrests, arresting agencies and booking  
11    numbers, charges, dispositions, and similar data about the person.

12    (B) “State summary criminal history information” does not  
13    refer to records and data compiled by criminal justice agencies  
14    other than the Attorney General, nor does it refer to records of  
15    complaints to or investigations conducted by, or records of  
16    intelligence information or security procedures of, the office of the  
17    Attorney General and the Department of Justice.

18    (b) The Attorney General shall furnish state summary criminal  
19    history information to any of the following, if needed in the course  
20    of their duties, provided that when information is furnished to  
21    assist an agency, officer, or official of state or local government,  
22    a public utility, or any other entity, in fulfilling employment,  
23    certification, or licensing duties, Chapter 1321 of the Statutes of  
24    1974 and Section 432.7 of the Labor Code shall apply:

25    (1) The courts of the state.

26    (2) Peace officers of the state as defined in Section 830.1,  
27    subdivisions (a) and (e) of Section 830.2, subdivision (a) of  
28    Section 830.3, subdivisions (a) and (b) of Section 830.5, and  
29    subdivision (a) of Section 830.31.

30    (3) District attorneys of the state.

31    (4) Prosecuting city attorneys of any city within the state.

32    (5) Probation officers of the state.

33    (6) Parole officers of the state.

34    (7) A public defender or attorney of record when representing  
35    a person in proceedings upon a petition for a certificate of  
36    rehabilitation and pardon pursuant to Section 4852.08.

37    (8) A public defender or attorney of record when representing  
38    a person in a criminal case and if authorized access by statutory or  
39    decisional law.

1 (9) Any agency, officer, or official of the state if the criminal  
2 history information is required to implement a statute or regulation  
3 that expressly refers to specific criminal conduct applicable to the  
4 subject person of the state summary criminal history information,  
5 and contains requirements or exclusions, or both, expressly based  
6 upon that specified criminal conduct. The agency, officer, or  
7 official of the state authorized by this paragraph to receive state  
8 summary criminal history information may also transmit  
9 fingerprint images and related information to the Department of  
10 Justice to be transmitted to the Federal Bureau of Investigation.

11 (10) Any city or county, or city and county, or district, or any  
12 officer, or official thereof if access is needed in order to assist that  
13 agency, officer, or official in fulfilling employment, certification,  
14 or licensing duties, and if the access is specifically authorized by  
15 the city council, board of supervisors, or governing board of the  
16 city, county, or district if the criminal history information is  
17 required to implement a statute, ordinance, or regulation that  
18 expressly refers to specific criminal conduct applicable to the  
19 subject person of the state summary criminal history information,  
20 and contains requirements or exclusions, or both, expressly based  
21 upon that specified criminal conduct. The city or county, or city  
22 and county, or district, or the officer or official thereof authorized  
23 by this paragraph may also transmit fingerprint images and related  
24 information to the Department of Justice to be transmitted to the  
25 Federal Bureau of Investigation.

26 (11) The subject of the state summary criminal history  
27 information under procedures established under Article 5  
28 (commencing with Section 11120) of Chapter 1 of Title 1 of Part  
29 4.

30 (12) Any person or entity when access is expressly authorized  
31 by statute if the criminal history information is required to  
32 implement a statute or regulation that expressly refers to specific  
33 criminal conduct applicable to the subject person of the state  
34 summary criminal history information, and contains requirements  
35 or exclusions, or both, expressly based upon that specified  
36 criminal conduct.

37 (13) Health officers of a city, county, or city and county, or  
38 district, when in the performance of their official duties enforcing  
39 Section 120175 of the Health and Safety Code.



1 (14) Any managing or supervising correctional officer of a  
2 county jail or other county correctional facility.

3 (15) Any humane society, or society for the prevention of  
4 cruelty to animals, for the specific purpose of complying with  
5 Section 14502 of the Corporations Code for the appointment of  
6 level 1 humane officers.

7 (16) Local child support agencies established by Section 17304  
8 of the Family Code. When a local child support agency closes a  
9 support enforcement case containing summary criminal history  
10 information, the agency shall delete or purge from the file and  
11 destroy any documents or information concerning or arising from  
12 offenses for or of which the parent has been arrested, charged, or  
13 convicted, other than for offenses related to the parent's having  
14 failed to provide support for minor children, consistent with the  
15 requirements of Section 17531 of the Family Code.

16 (17) County child welfare agency personnel who have been  
17 delegated the authority of county probation officers to access state  
18 summary criminal history information pursuant to Section 272 of  
19 the Welfare and Institutions Code for the purposes specified in  
20 Section 16504.5 of the Welfare and Institutions Code. Information  
21 from criminal history records provided pursuant to this  
22 subdivision shall not be used for any purposes other than those  
23 specified in this section and Section 16504.5 of the Welfare and  
24 Institutions Code. When an agency obtains records obtained both  
25 on the basis of name checks and fingerprint checks, final  
26 placement decisions shall be based only on the records obtained  
27 pursuant to the fingerprint check.

28 (c) The Attorney General may furnish state summary criminal  
29 history information *and, when specifically authorized by this*  
30 *subdivision, federal level criminal history information* upon a  
31 showing of a compelling need to any of the following, provided  
32 that when information is furnished to assist an agency, officer, or  
33 official of state or local government, a public utility, or any other  
34 entity, in fulfilling employment, certification, or licensing duties,  
35 Chapter 1321 of the Statutes of 1974 and Section 432.7 of the  
36 Labor Code shall apply:

37 (1) Any public utility as defined in Section 216 of the Public  
38 Utilities Code that operates a nuclear energy facility when access  
39 is needed in order to assist in employing persons to work at the  
40 facility, provided that, if the Attorney General supplies the data,

1 he or she shall furnish a copy of the data to the person to whom the  
2 data relates.

3 (2) To a peace officer of the state other than those included in  
4 subdivision (b).

5 (3) To a peace officer of another country.

6 (4) To public officers (other than peace officers) of the United  
7 States, other states, or possessions or territories of the United  
8 States, provided that access to records similar to state summary  
9 criminal history information is expressly authorized by a statute of  
10 the United States, other states, or possessions or territories of the  
11 United States if the information is needed for the performance of  
12 their official duties.

13 (5) To any person when disclosure is requested by a probation,  
14 parole, or peace officer with the consent of the subject of the state  
15 summary criminal history information and for purposes of  
16 furthering the rehabilitation of the subject.

17 (6) The courts of the United States, other states, or territories  
18 or possessions of the United States.

19 (7) Peace officers of the United States, other states, or  
20 territories or possessions of the United States.

21 (8) To any individual who is the subject of the record requested  
22 if needed in conjunction with an application to enter the United  
23 States or any foreign nation.

24 (9) (A) Any public utility as defined in Section 216 of the  
25 Public Utilities Code, ~~if access~~ *or any cable corporation as*  
26 *defined in subparagraph (B), if receipt of criminal history*  
27 *information is needed in order to assist in employing current or*  
28 *prospective employees, contract employees, or subcontract*  
29 *employees who, in the course of their employment may be seeking*  
30 *entrance to private residences or adjacent grounds. The*  
31 *information provided shall be limited to the record of convictions*  
32 *and any arrest for which the person is released on bail or on his or*  
33 *her own recognizance pending trial.*

34 If the Attorney General supplies the data pursuant to this  
35 paragraph, the Attorney General shall furnish a copy of the data to  
36 the current or prospective employee to whom the data relates.

37 Any information obtained from the state summary criminal  
38 history is confidential and the receiving public utility *or cable*  
39 *corporation* shall not disclose its contents, other than for the  
40 purpose for which it was acquired. The state summary criminal

1 history information in the possession of the public utility *or cable*  
2 *corporation* and all copies made from it shall be destroyed not  
3 more than 30 days after employment or promotion or transfer is  
4 denied or granted, except for those cases where a current or  
5 prospective employee is out on bail or on his or her own  
6 recognizance pending trial, in which case the state summary  
7 criminal history information and all copies shall be destroyed not  
8 more than 30 days after the case is resolved.

9 A violation of this paragraph is a misdemeanor, and shall give  
10 the current or prospective employee who is injured by the violation  
11 a cause of action against the public utility *or cable corporation* to  
12 recover damages proximately caused by the violations. Any public  
13 utility's *or cable corporation's* request for state summary criminal  
14 history information for purposes of employing current or  
15 prospective employees who may be seeking entrance to private  
16 residences *or adjacent grounds* in the course of their employment  
17 shall be deemed a "compelling need" as required to be shown in  
18 this subdivision.

19 Nothing in this section shall be construed as imposing any duty  
20 upon public utilities *or cable corporations* to request state  
21 summary criminal history information on any current or  
22 prospective employees.

23 (B) *For purposes of this paragraph, "cable corporation"*  
24 *means any corporation or firm that transmits or provides*  
25 *television, computer, or telephone services by cable, digital, fiber*  
26 *optic, satellite, or comparable technology to subscribers for a fee.*

27 (C) *Requests for federal level criminal history information*  
28 *received by the Department of Justice from entities authorized*  
29 *pursuant to subparagraph (A) shall be forwarded to the Federal*  
30 *Bureau of Investigation by the Department of Justice. Federal*  
31 *level criminal history information received or compiled by the*  
32 *Department of Justice may then be disseminated to the entities*  
33 *referenced in subparagraph (A), as authorized by law.*

34 (D) (i) *Authority for a cable corporation to request state or*  
35 *federal level criminal history information under this paragraph*  
36 *shall commence July 1, 2005.*

37 (ii) *Authority for a public utility to request federal level*  
38 *criminal history information under this paragraph shall*  
39 *commence July 1, 2005.*





1 (10) To any campus of the California State University or the  
2 University of California, or any four-year college or university  
3 accredited by a regional accreditation organization approved by  
4 the United States Department of Education, if needed in  
5 conjunction with an application for admission by a convicted felon  
6 to any special education program for convicted felons, including,  
7 but not limited to, university alternatives and halfway houses.  
8 Only conviction information shall be furnished. The college or  
9 university may require the convicted felon to be fingerprinted, and  
10 any inquiry to the department under this section shall include the  
11 convicted felon's fingerprints and any other information specified  
12 by the department.

13 (d) Whenever an authorized request for state summary criminal  
14 history information pertains to a person whose fingerprints are on  
15 file with the Department of Justice and the department has no  
16 criminal history of that person, and the information is to be used  
17 for employment, licensing, or certification purposes, the  
18 fingerprint card accompanying the request for information, if any,  
19 may be stamped "no criminal record" and returned to the person  
20 or entity making the request.

21 (e) Whenever state summary criminal history information is  
22 furnished as the result of an application and is to be used for  
23 employment, licensing, or certification purposes, the Department  
24 of Justice may charge the person or entity making the request a fee  
25 that it determines to be sufficient to reimburse the department for  
26 the cost of furnishing the information. In addition, the Department  
27 of Justice may add a surcharge to the fee to fund maintenance and  
28 improvements to the systems from which the information is  
29 obtained. Notwithstanding any other law, any person or entity  
30 required to pay a fee to the department for information received  
31 under this section may charge the applicant a fee sufficient to  
32 reimburse the person or entity for this expense. All moneys  
33 received by the department pursuant to this section, Sections  
34 11105.3 and 12054 of the Penal Code, and Section 13588 of the  
35 Education Code shall be deposited in a special account in the  
36 General Fund to be available for expenditure by the department to  
37 offset costs incurred pursuant to those sections and for  
38 maintenance and improvements to the systems from which the  
39 information is obtained upon appropriation by the Legislature.





1 (f) Whenever there is a conflict, the processing of criminal  
2 fingerprints and fingerprints of applicants for security guard or  
3 alarm agent registrations or firearms qualification permits  
4 submitted pursuant to Section 7583.9, 7583.23, 7596.3, or 7598.4  
5 of the Business and Professions Code shall take priority over the  
6 processing of other applicant fingerprints.

7 (g) It is not a violation of this section to disseminate statistical  
8 or research information obtained from a record, provided that the  
9 identity of the subject of the record is not disclosed.

10 (h) It is not a violation of this section to include information  
11 obtained from a record in (1) a transcript or record of a judicial or  
12 administrative proceeding or (2) any other public record if the  
13 inclusion of the information in the public record is authorized by  
14 a court, statute, or decisional law.

15 (i) Notwithstanding any other law, the Department of Justice or  
16 any state or local law enforcement agency may require the  
17 submission of fingerprints for the purpose of conducting summary  
18 criminal history information checks that are authorized by law.

19 (j) The state summary criminal history information shall  
20 include any finding of mental incompetence pursuant to Chapter  
21 6 (commencing with Section 1367) of Title 10 of Part 2 arising out  
22 of a complaint charging a felony offense specified in Section 290.

23 (k) (1) This subdivision shall apply whenever state or federal  
24 summary criminal history information is furnished by the  
25 Department of Justice as the result of an application by an  
26 authorized agency or organization and the information is to be  
27 used for peace officer employment or certification purposes. As  
28 used in this subdivision, a peace officer is defined in Chapter 4.5  
29 (commencing with Section 830) of Title 3 of Part 2.

30 (2) Notwithstanding any other provision of law, whenever state  
31 summary criminal history information is furnished pursuant to  
32 paragraph (1), the Department of Justice shall disseminate the  
33 following information:

34 (A) Every conviction rendered against the applicant.

35 (B) Every arrest for an offense for which the applicant is  
36 presently awaiting trial, whether the applicant is incarcerated or  
37 has been released on bail or on his or her own recognizance  
38 pending trial.

39 (C) Every arrest or detention, except for an arrest or detention  
40 resulting in an exoneration, provided however that where the

1 records of the Department of Justice do not contain a disposition  
2 for the arrest, the Department of Justice first makes a genuine  
3 effort to determine the disposition of the arrest.

4 (D) Every successful diversion.

5 (l) (1) This subdivision shall apply whenever state or federal  
6 summary criminal history information is furnished by the  
7 Department of Justice as the result of an application by a criminal  
8 justice agency or organization as defined in Section 13101 of the  
9 Penal Code, and the information is to be used for criminal justice  
10 employment, licensing, or certification purposes.

11 (2) Notwithstanding any other provision of law, whenever state  
12 summary criminal history information is furnished pursuant to  
13 paragraph (1), the Department of Justice shall disseminate the  
14 following information:

15 (A) Every conviction rendered against the applicant.

16 (B) Every arrest for an offense for which the applicant is  
17 presently awaiting trial, whether the applicant is incarcerated or  
18 has been released on bail or on his or her own recognizance  
19 pending trial.

20 (C) Every arrest for an offense for which the records of the  
21 Department of Justice do not contain a disposition or did not result  
22 in a conviction, provided that the Department of Justice first makes  
23 a genuine effort to determine the disposition of the arrest.  
24 However, information concerning an arrest shall not be disclosed  
25 if the records of the Department of Justice indicate or if the genuine  
26 effort reveals that the subject was exonerated, successfully  
27 completed a diversion or deferred entry of judgment program, or  
28 the arrest was deemed a detention.

29 (m) (1) This subdivision shall apply whenever state or federal  
30 summary criminal history information is furnished by the  
31 Department of Justice as the result of an application by an  
32 authorized agency or organization pursuant to Section 1522,  
33 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or  
34 any statute that incorporates the criteria of any of those sections or  
35 this subdivision by reference, and the information is to be used for  
36 employment, licensing, or certification purposes.

37 (2) Notwithstanding any other provision of law, whenever state  
38 summary criminal history information is furnished pursuant to  
39 paragraph (1), the Department of Justice shall disseminate the  
40 following information:

1 (A) Every conviction of an offense rendered against the  
2 applicant.

3 (B) Every arrest for an offense for which the applicant is  
4 presently awaiting trial, whether the applicant is incarcerated or  
5 has been released on bail or on his or her own recognizance  
6 pending trial.

7 (C) Every arrest for an offense for which the Department of  
8 Social Services is required by paragraph (1) of subdivision (a) of  
9 Section 1522 of the Health and Safety Code to determine if an  
10 applicant has been arrested. However, if the records of the  
11 Department of Justice do not contain a disposition for an arrest, the  
12 Department of Justice shall first make a genuine effort to  
13 determine the disposition of the arrest.

14 (3) Notwithstanding the requirements of the sections  
15 referenced in paragraph (1) of this subdivision, the Department of  
16 Justice shall not disseminate information about an arrest  
17 subsequently deemed a detention or an arrest that resulted in either  
18 the successful completion of a diversion program or exoneration.

19 (n) (1) This subdivision shall apply whenever state or federal  
20 summary criminal history information, *to be used for*  
21 *employment, licensing, or certification purposes*, is furnished by  
22 the Department of Justice as the result of an application by an  
23 authorized agency, organization, or individual pursuant to ~~Section~~  
24 *any of the following*:

25 (A) *Paragraph (9) of subdivision (c), when the information is*  
26 *to be used by a cable corporation.*

27 (B) *Section 11105.3 or 11105.4 of this code, Section.*

28 (C) *Section 15660 of the Welfare and Institutions Code, or any.*

29 (D) *Any statute that incorporates the criteria of any of those*  
30 *sections or the statutory provisions listed in subparagraph (A),*  
31 *(B), or (C), or of this subdivision, by reference, and the*  
32 *information is to be used for employment, licensing, or*  
33 *certification purposes.*

34 (2) With the exception of applications submitted by  
35 transportation companies authorized pursuant to Section 11105.3,  
36 and notwithstanding any other provision of law, whenever state  
37 summary criminal history information is furnished pursuant to  
38 paragraph (1), the Department of Justice shall disseminate the  
39 following information:

1 (A) Every conviction rendered against the applicant for a  
2 violation or attempted violation of any offense specified in  
3 subdivision (a) of Section 15660 of the Welfare and Institutions  
4 Code. However, with the exception of those offenses for which  
5 registration is required pursuant to Section 290, the Department of  
6 Justice shall not disseminate information pursuant to this  
7 subdivision unless the conviction occurred within 10 years of the  
8 date of the agency's request for information or the conviction is  
9 over 10 years old but the subject of the request was incarcerated  
10 within 10 years of the agency's request for information.

11 (B) Every arrest for a violation or attempted violation of an  
12 offense specified in subdivision (a) of Section 15660 of the  
13 Welfare and Institutions Code for which the applicant is presently  
14 awaiting trial, whether the applicant is incarcerated or has been  
15 released on bail or on his or her own recognizance pending trial.

16 (o) (1) This subdivision shall apply whenever state or federal  
17 summary criminal history information is furnished by the  
18 Department of Justice as the result of an application by an  
19 authorized agency or organization pursuant to Section 261 or  
20 777.5 of the Financial Code, or any statute that incorporates the  
21 criteria of either of those sections or this subdivision by reference,  
22 and the information is to be used for employment, licensing, or  
23 certification purposes.

24 (2) Notwithstanding any other provision of law, whenever state  
25 summary criminal history information is furnished pursuant to  
26 paragraph (1), the Department of Justice shall disseminate the  
27 following information:

28 (A) Every conviction rendered against the applicant for a  
29 violation or attempted violation of any offense specified in Section  
30 777.5 of the Financial Code.

31 (B) Every arrest for a violation or attempted violation of an  
32 offense specified in Section 777.5 of the Financial Code for which  
33 the applicant is presently awaiting trial, whether the applicant is  
34 incarcerated or has been released on bail or on his or her own  
35 recognizance pending trial.

36 (p) (1) This subdivision shall apply whenever state or federal  
37 criminal history information is furnished by the Department of  
38 Justice as the result of an application by an agency, organization,  
39 or individual not defined in subdivision (k), (l), (m), (n), or (o), or  
40 by a transportation company authorized pursuant to Section

11105.3, or any statute that incorporates the criteria of that section or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other provisions of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(q) All agencies, organizations, or individuals defined in subdivisions (k), (l), (m), (n), (o), and (p) may contract with the Department of Justice for subsequent arrest notification pursuant to Section 11105.2. This subdivision shall not supersede sections that mandate an agency, organization, or individual to contract with the Department of Justice for subsequent arrest notification pursuant to Section 11105.2.

(r) Nothing in this section shall be construed to mean that the Department of Justice shall cease compliance with any other statutory notification requirements.

(s) The provisions of Section 50.12 of Title 28 of the Code of Federal Regulations are to be followed in processing federal criminal history information.

*SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.*

read:

~~11105. (a) (1) The Department of Justice shall maintain state summary criminal history information.~~

~~(2) As used in this section:~~

~~(A) "State summary criminal history information" means the master record of information compiled by the Attorney General~~

1 pertaining to the identification and criminal history of any person;  
2 such as name, date of birth, physical description, fingerprints,  
3 photographs, date of arrests, arresting agencies and booking  
4 numbers, charges, dispositions, and similar data about the person.

5 (B) “State summary criminal history information” does not  
6 refer to records and data compiled by criminal justice agencies  
7 other than the Attorney General, nor does it refer to records of  
8 complaints to or investigations conducted by, or records of  
9 intelligence information or security procedures of, the office of the  
10 Attorney General and the Department of Justice.

11 (b) The Attorney General shall furnish state summary criminal  
12 history information to any of the following, if needed in the course  
13 of their duties, provided that when information is furnished to  
14 assist an agency, officer, or official of state or local government,  
15 a public utility, or any other entity, in fulfilling employment,  
16 certification, or licensing duties, Chapter 1321 of the Statutes of  
17 1974 and Section 432.7 of the Labor Code shall apply:

18 (1) The courts of the state.

19 (2) Peace officers of the state as defined in Section 830.1,  
20 subdivisions (a) and (c) of Section 830.2, subdivision (a) of  
21 Section 830.3, subdivisions (a) and (b) of Section 830.5, and  
22 subdivision (a) of Section 830.31.

23 (3) District attorneys of the state.

24 (4) Prosecuting city attorneys of any city within the state.

25 (5) Probation officers of the state.

26 (6) Parole officers of the state.

27 (7) A public defender or attorney of record when representing  
28 a person in proceedings upon a petition for a certificate of  
29 rehabilitation and pardon pursuant to Section 4852.08.

30 (8) A public defender or attorney of record when representing  
31 a person in a criminal case and if authorized access by statutory or  
32 decisional law.

33 (9) Any agency, officer, or official of the state if the criminal  
34 history information is required to implement a statute or regulation  
35 that expressly refers to specific criminal conduct applicable to the  
36 subject person of the state summary criminal history information;  
37 and contains requirements or exclusions, or both, expressly based  
38 upon that specified criminal conduct.

39 (10) Any city or county, or city and county, or district, or any  
40 officer, or official thereof if access is needed in order to assist that

1 ~~agency, officer, or official in fulfilling employment, certification,~~  
2 ~~or licensing duties, and if the access is specifically authorized by~~  
3 ~~the city council, board of supervisors, or governing board of the~~  
4 ~~city, county, or district if the criminal history information is~~  
5 ~~required to implement a statute, ordinance, or regulation that~~  
6 ~~expressly refers to specific criminal conduct applicable to the~~  
7 ~~subject person of the state summary criminal history information,~~  
8 ~~and contains requirements or exclusions, or both, expressly based~~  
9 ~~upon that specified criminal conduct.~~

10 ~~(11) The subject of the state summary criminal history~~  
11 ~~information under procedures established under Article 5~~  
12 ~~(commencing with Section 11120) of Chapter 1 of Title 1 of Part~~  
13 ~~4.~~

14 ~~(12) Any person or entity when access is expressly authorized~~  
15 ~~by statute if the criminal history information is required to~~  
16 ~~implement a statute or regulation that expressly refers to specific~~  
17 ~~criminal conduct applicable to the subject person of the state~~  
18 ~~summary criminal history information, and contains requirements~~  
19 ~~or exclusions, or both, expressly based upon that specified~~  
20 ~~criminal conduct.~~

21 ~~(13) Health officers of a city, county, or city and county, or~~  
22 ~~district, when in the performance of their official duties enforcing~~  
23 ~~Section 120175 of the Health and Safety Code.~~

24 ~~(14) Any managing or supervising correctional officer of a~~  
25 ~~county jail or other county correctional facility.~~

26 ~~(15) Any humane society, or society for the prevention of~~  
27 ~~cruelty to animals, for the specific purpose of complying with~~  
28 ~~Section 14502 of the Corporations Code for the appointment of~~  
29 ~~level 1 humane officers.~~

30 ~~(16) Local child support agencies established by Section 17304~~  
31 ~~of the Family Code. When a local child support agency closes a~~  
32 ~~support enforcement case containing summary criminal history~~  
33 ~~information, the agency shall delete or purge from the file and~~  
34 ~~destroy any documents or information concerning or arising from~~  
35 ~~offenses for or of which the parent has been arrested, charged, or~~  
36 ~~convicted, other than for offenses related to the parent's having~~  
37 ~~failed to provide support for minor children, consistent with the~~  
38 ~~requirements of Section 17531 of the Family Code.~~

39 ~~(17) County child welfare agency personnel who have been~~  
40 ~~delegated the authority of county probation officers to access state~~



~~summary criminal history information pursuant to Section 272 of the Welfare and Institutions Code for the purposes specified in Section 16504.5 of the Welfare and Institutions Code. Information from criminal history records provided pursuant to this subdivision shall not be used for any purposes other than those specified in this section and Section 16504.5 of the Welfare and Institutions Code. When an agency obtains records obtained both on the basis of name checks and fingerprint checks, final placement decisions shall be based only on the records obtained pursuant to the fingerprint check.~~

~~(e) The Attorney General may furnish state summary criminal history information and, when specifically authorized by this subdivision, federal level criminal history information upon a showing of a compelling need to any of the following, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any other entity, in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:~~

~~(1) Any public utility as defined in Section 216 of the Public Utilities Code that operates a nuclear energy facility when access is needed in order to assist in employing persons to work at the facility, provided that, if the Attorney General supplies the data, he or she shall furnish a copy of the data to the person to whom the data relates.~~

~~(2) To a peace officer of the state other than those included in subdivision (b).~~

~~(3) To a peace officer of another country.~~

~~(4) To public officers (other than peace officers) of the United States, other states, or possessions or territories of the United States, provided that access to records similar to state summary criminal history information is expressly authorized by a statute of the United States, other states, or possessions or territories of the United States if the information is needed for the performance of their official duties.~~

~~(5) To any person when disclosure is requested by a probation, parole, or peace officer with the consent of the subject of the state summary criminal history information and for purposes of furthering the rehabilitation of the subject.~~

1 ~~(6) The courts of the United States, other states, or territories~~  
2 ~~or possessions of the United States.~~

3 ~~(7) Peace officers of the United States, other states, or~~  
4 ~~territories or possessions of the United States.~~

5 ~~(8) To any individual who is the subject of the record requested~~  
6 ~~if needed in conjunction with an application to enter the United~~  
7 ~~States or any foreign nation.~~

8 ~~(9) (A) Any public utility as defined in Section 216 of the~~  
9 ~~Public Utilities Code, or any cable corporation as defined in~~  
10 ~~subparagraph (B), if receipt of criminal history information is~~  
11 ~~needed in order to assist in employing current or prospective~~  
12 ~~employees, contract employees, or subcontract employees who, in~~  
13 ~~the course of their employment, may be seeking entrance to private~~  
14 ~~residences or adjacent grounds. The information provided shall be~~  
15 ~~limited to the record of convictions and any arrest for which the~~  
16 ~~person is released on bail or on his or her own recognizance~~  
17 ~~pending trial.~~

18 ~~If the Attorney General supplies the data pursuant to this~~  
19 ~~paragraph, the Attorney General shall furnish a copy of the data to~~  
20 ~~the current or prospective employee to whom the data relates.~~

21 ~~Any information obtained from the state summary criminal~~  
22 ~~history is confidential and the receiving public utility or cable~~  
23 ~~corporation shall not disclose its contents, other than for the~~  
24 ~~purpose for which it was acquired. The state summary criminal~~  
25 ~~history information in the possession of the public utility or cable~~  
26 ~~corporation and all copies made from it shall be destroyed not~~  
27 ~~more than 30 days after employment or promotion or transfer is~~  
28 ~~denied or granted, except for those cases where a current or~~  
29 ~~prospective employee is out on bail or on his or her own~~  
30 ~~recognizance pending trial, in which case the state summary~~  
31 ~~criminal history information and all copies shall be destroyed not~~  
32 ~~more than 30 days after the case is resolved.~~

33 ~~A violation of this paragraph is a misdemeanor, and shall give~~  
34 ~~the current or prospective employee who is injured by the violation~~  
35 ~~a cause of action against the public utility or cable corporation to~~  
36 ~~recover damages proximately caused by the violations. Any public~~  
37 ~~utility's or cable corporation's request for state summary criminal~~  
38 ~~history information for purposes of employing current or~~  
39 ~~prospective employees who may be seeking entrance to private~~  
40 ~~residences or adjacent grounds in the course of their employment~~

1 shall be deemed a “compelling need” as required to be shown in  
2 this subdivision.

3 ~~Nothing in this section shall be construed as imposing any duty~~  
4 ~~upon public utilities or cable corporations to request state~~  
5 ~~summary criminal history information on any current or~~  
6 ~~prospective employees.~~

7 (B) ~~For purposes of this paragraph, “cable corporation” means~~  
8 ~~any corporation or firm that transmits or provides television,~~  
9 ~~computer, or telephone services by cable, digital, fiber optic,~~  
10 ~~satellite, or comparable technology to subscribers for a fee.~~

11 (C) ~~Requests for federal level criminal history information~~  
12 ~~received by the Department of Justice from entities authorized~~  
13 ~~pursuant to subparagraph (A) shall be forwarded to the Federal~~  
14 ~~Bureau of Investigation by the Department of Justice. Federal~~  
15 ~~level criminal history information received or compiled by the~~  
16 ~~Department of Justice may then be disseminated to the entities~~  
17 ~~referenced in subparagraph (A), as authorized by law.~~

18 (10) ~~To any campus of the California State University or the~~  
19 ~~University of California, or any four-year college or university~~  
20 ~~accredited by a regional accreditation organization approved by~~  
21 ~~the United States Department of Education, if needed in~~  
22 ~~conjunction with an application for admission by a convicted felon~~  
23 ~~to any special education program for convicted felons, including,~~  
24 ~~but not limited to, university alternatives and halfway houses.~~  
25 ~~Only conviction information shall be furnished. The college or~~  
26 ~~university may require the convicted felon to be fingerprinted, and~~  
27 ~~any inquiry to the department under this section shall include the~~  
28 ~~convicted felon’s fingerprints and any other information specified~~  
29 ~~by the department.~~

30 (d) ~~Whenever an authorized request for state summary criminal~~  
31 ~~history information pertains to a person whose fingerprints are on~~  
32 ~~file with the Department of Justice and the department has no~~  
33 ~~criminal history of that person, and the information is to be used~~  
34 ~~for employment, licensing, or certification purposes, the~~  
35 ~~fingerprint card accompanying the request for information, if any,~~  
36 ~~may be stamped “no criminal record” and returned to the person~~  
37 ~~or entity making the request.~~

38 (e) ~~Whenever state summary criminal history information is~~  
39 ~~furnished as the result of an application and is to be used for~~  
40 ~~employment, licensing, or certification purposes, the Department~~

~~of Justice may charge the person or entity making the request a fee that it determines to be sufficient to reimburse the department for the cost of furnishing the information. In addition, the Department of Justice may add a surcharge to the fee to fund maintenance and improvements to the systems from which the information is obtained. Notwithstanding any other law, any person or entity required to pay a fee to the department for information received under this section may charge the applicant a fee sufficient to reimburse the person or entity for this expense. All moneys received by the department pursuant to this section, Sections 11105.3 and 12054 of the Penal Code, and Section 13588 of the Education Code shall be deposited in a special account in the General Fund to be available for expenditure by the department to offset costs incurred pursuant to those sections and for maintenance and improvements to the systems from which the information is obtained upon appropriation by the Legislature.~~

~~(f) Whenever there is a conflict, the processing of criminal fingerprints and fingerprints of applicants for security guard or alarm agent registrations or firearms qualification permits submitted pursuant to Section 7583.9, 7583.23, 7596.3, or 7598.4 of the Business and Professions Code shall take priority over the processing of other applicant fingerprints.~~

~~(g) It is not a violation of this section to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed.~~

~~(h) It is not a violation of this section to include information obtained from a record in (1) a transcript or record of a judicial or administrative proceeding or (2) any other public record if the inclusion of the information in the public record is authorized by a court, statute, or decisional law.~~

~~(i) Notwithstanding any other law, the Department of Justice or any state or local law enforcement agency may require the submission of fingerprints for the purpose of conducting summary criminal history information checks that are authorized by law.~~

~~(j) The state summary criminal history information shall include any finding of mental incompetency pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 arising out of a complaint charging a felony offense specified in Section 290.~~

~~(k) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the~~

~~Department of Justice as the result of an application by an authorized agency or organization and is to be used for peace officer employment or certification purposes. As used in this subdivision, a peace officer is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.~~

~~(2) Notwithstanding any other provision of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:~~

~~(A) Every conviction rendered against the applicant.~~

~~(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.~~

~~(C) Every arrest for an offense for which the records of the Department of Justice do not contain a disposition, provided that the Department of Justice first makes a genuine effort to determine the disposition of the arrest.~~

~~(D) Every detention or successful diversion.~~

~~(l) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by a criminal justice agency or organization as defined in Section 13101 of the Penal Code, and the criminal history information is to be used for criminal justice employment, licensing, or certification purposes.~~

~~(2) Notwithstanding any other provision of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:~~

~~(A) Every conviction rendered against the applicant.~~

~~(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.~~

~~(C) Every arrest for an offense for which the records of the Department of Justice do not contain a disposition, provided that the Department of Justice first makes a genuine effort to determine the disposition of the arrest.~~

~~(m) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the~~

1 Department of Justice as the result of an application by an  
2 authorized agency or organization and it is to be used for  
3 employment, licensing, or certification purposes pursuant to any  
4 of the following sections, or pursuant to any statute that  
5 incorporates the criteria of any of these sections by reference:

6 Section 1522, 1568.09, 1569.17, or 1596.871 of the Health and  
7 Safety Code.

8 (2) Notwithstanding any other provision of law, whenever state  
9 summary criminal history information is furnished pursuant to  
10 paragraph (1), the Department of Justice shall disseminate the  
11 following information:

12 (A) Every conviction of an offense rendered against the  
13 applicant.

14 (B) Every arrest for an offense for which the applicant is  
15 presently awaiting trial, whether the applicant is incarcerated or  
16 has been released on bail or on his or her own recognizance  
17 pending trial.

18 (C) Every arrest for an offense for which the State Department  
19 of Social Services is required by paragraph (1) of subdivision (a)  
20 of Section 1522 of the Health and Safety Code to determine if an  
21 applicant has been arrested. However, if the records of the  
22 Department of Justice do not contain a disposition for an arrest, the  
23 Department of Justice shall first make a genuine effort to  
24 determine the disposition of the arrest.

25 (3) Notwithstanding the requirements of the sections  
26 referenced in paragraph (1) of this subdivision, the Department of  
27 Justice shall not disseminate information about an arrest  
28 subsequently deemed a detention or an arrest that resulted in either  
29 the successful completion of a diversion program or exoneration.

30 (n) (1) This subdivision shall apply whenever state or federal  
31 summary criminal history information, to be used for  
32 employment, licensing, or certification purposes, is furnished by  
33 the Department of Justice as the result of an application by an  
34 agency, organization, or individual pursuant to any of the  
35 following:

36 (A) Paragraph (9) of subdivision (c), when the information is  
37 to be used by a cable corporation.

38 (B) Section 11105.3 or 11105.4 of this code.

39 (C) Section 15660 of the Welfare and Institutions Code.

~~(2) With the exception of applications submitted by transportation companies authorized pursuant to Section 11105.3, and notwithstanding any other provision of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:~~

~~(A) Every conviction rendered against the applicant for a violation or attempted violation of any offense specified in subdivision (a) of Section 15660 of the Welfare and Institutions Code. However, with the exception of those offenses for which registration is required pursuant to Section 290, the Department of Justice shall not disseminate information pursuant to this subdivision unless the conviction occurred within 10 years of the date of the application or the conviction is over 10 years old but the subject of the request was incarcerated within 10 years of the application.~~

~~(B) Every arrest for a violation or attempted violation of an offense specified in subdivision (a) of Section 15660 of the Welfare and Institutions Code for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.~~

~~(c) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an agency or organization pursuant to Section 777.5 of the Financial Code and is to be used for employment, licensing, or certification purposes.~~

~~(2) Notwithstanding any other provision of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:~~

~~(A) Every conviction rendered against the applicant for a violation or attempted violation of any offense specified in Section 777.5 of the Financial Code.~~

~~(B) Every arrest for a violation or attempted violation of an offense specified in Section 777.5 of the Financial Code for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.~~



~~(p) (1) This subdivision shall apply whenever state or federal criminal history information is furnished by the Department of Justice as the result of an application by an agency, organization, or individual not defined in subdivision (k), (l), (m), (n), or (o), or by a transportation company authorized pursuant to Section 11105.3, and is to be used for employment, licensing, or certification purposes.~~

~~(2) Notwithstanding any other provisions of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:~~

~~(A) Every conviction rendered against the applicant.~~

~~(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.~~

~~(q) All agencies, organizations, or individuals defined in subdivisions (k), (l), (m), (n), (o), and (p) may contract with the Department of Justice for subsequent arrest notification pursuant to Section 11105.2. This subdivision shall not supersede sections that mandate an agency, organization, or individual to contract with the Department of Justice for subsequent arrest notification pursuant to Section 11105.2.~~

~~(r) Nothing in this section shall be construed to mean that the Department of Justice shall cease compliance with any other statutory notification requirements.~~